

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**GARY BRICE MCBAY**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 1:07CV1205-LG-RHW**

**HARRISON COUNTY, MISSISSIPPI, ET AL.**

**DEFENDANTS**

**DEFENDANT, GEORGE PAYNE'S MOTION IN LIMINE NO. 12  
TO BAR PLAINTIFF FROM OFFERING NEWSPAPER ARTICLES**

COMES NOW, Defendant, Sheriff George Payne, in his official capacity, by and through his attorneys of record, Dukes, Dukes, Keating & Faneca, P.A., and moves this Honorable Court in *limine*, for an Order barring Plaintiff from offering newspaper articles. In support thereof, Defendant states as follows:

1. Defendant respectfully moves this Court to bar Plaintiff from offering any reference, testimony or argument regarding any newspaper articles (See newspaper articles, **Exhibit "12"**); pursuant to Fed. R. Evid. 801 and 802, being inadmissible hearsay. Notwithstanding the fact that the newspaper articles themselves are hearsay, the matters contained within them contain additional hearsay in violation of Fed. R. Evid. 805. Lastly, all newspaper articles published after this incident, November 6, 2005, are not relevant pursuant to Fed. R. Evid. 401 and 402.

WHEREFORE PREMISES CONSIDERED Defendant, George Payne respectfully requests this Court to enter an Order granting this Motion in Limine and respectfully requests the Court to enter an Order as follows:

- A) Directing the Plaintiff through their respective counsel, and counsel individually, not to mention, refer to, interrogate concerning, voluntarily answer, or attempt to convey before the jury whether orally or through a document, at any time during these proceedings, in any manner, either directly or indirectly, the subject matters as stated

above without first informing the Court and obtaining permission of the court outside the presence and hearing of the jury;

- B) Instructing the Plaintiff, through their respective counsel, and counsel individually, not to make any reference or inference to the fact that this motion has been filed, argued or ruled upon by this Court; and
- C) Instructing Plaintiff and Plaintiff's attorney to warn and caution each and every witness appearing in their phase of this litigation to strictly comply with the Court's ruling.

RESPECTFULLY SUBMITTED, this the 1<sup>st</sup> day of April, 2010.

**GEORGE PAYNE, JR., IN HIS OFFICIAL CAPACITY  
ONLY, Defendant**

**DUKES, DUKES, KEATING & FANCA, P.A.**

BY: /s/Cy Faneca  
CY FANCA

Cy Faneca, MSB #5128  
Jon S. Tiner, MSB #101733  
**DUKES, DUKES, KEATING AND FANCA, P.A.**  
Post Office Drawer W  
Gulfport, Mississippi 39502  
**Telephone:** (228) 868-1111  
**Facsimile:** (228) 863-2886

---

**CERTIFICATE OF SERVICE**

I, CY FANCA, do hereby certify that I have this day electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Patrick R. Buchanan  
Steven B. Dick  
Mark Watts  
Brown Buchanan  
P.O. Box 1377  
Biloxi, MS 39533  
*Attorneys for Plaintiff*

Karen J. Young  
Meadows Law Firm  
P.O. Box 1076  
Gulfport, MS 39502  
*Attorney for Harrison County*

James L. Davis  
Ian A. Brendel  
Jim Davis, P.A.  
P.O. Box 1521  
Gulfport, MS 39502  
*Attorneys for Morgan Thompson*

This, the 1<sup>st</sup> day of April, 2010.

s/CyFaneca  
CY FANCA